

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DUWAYNE M. JACKSON,

Plaintiff,

v.

C. PFEIFFER, *et al.*,

Defendants.

Case No. 1:21-cv-00452-JLT-CDB (PC)

ORDER GRANTING PLAINTIFF'S
UNOPPOSED REQUEST FOR
SUBSTITUTION OF PARTY

(Doc. 33)

ORDER DIRECTING DEFENDANT M.
RAUF TO FILE RESPONSE

Seven-Day Deadline

Plaintiff Duwayne M. Jackson is a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. Relevant here, the Court screened Plaintiff's complaint and found that it states cognizable claims for Eighth Amendment medical indifference by Defendant "R. Muhammad." (Doc. 15).

Plaintiff's Unopposed Request to Substitute

On October 10, 2023, Plaintiff filed a "Request for Judicial Notice." (Doc. 33). Therein, Plaintiff attests to communicating with counsel for Defendants and being informed that Defendant R. Muhammad "was incorrectly represented and his Job Title was misstated/omitted." *Id.* at 1. Accordingly, Plaintiff requests the Court correct the name and job title of Defendant R. Muhammad as "Muhammad Raulf." *Id.* at 2.

1 In a response to Plaintiff's request, filed October 19, 2023, counsel for Defendants
2 represents that Defendants do not oppose Plaintiff's request for substitution; however, they ask
3 the Court to correct the spelling of the substituted defendant's name to "Dr. M. Rauf." (Doc. 34
4 at 2).

5 For good cause shown and based on the parties' mutual agreement, the request for
6 substitution shall be granted. The original complaint as screened will remain the operative
7 complaint in this action and the Court will substitute M. Rauf for Defendant R. Muhammad. *See,*
8 *e.g., Cantu v. Doe I*, No. 1:20-cv-00386-HBK, 2021 WL 2822531, at *1-2 (E.D. Cal. July 7,
9 2021) (directing clerk of court to update case caption to reflect substituted, named parties);
10 *Altheide v. Williams*, No. 2:17-cv-02821JCM-BNW, 2020 WL 42462 * 1 (D. Nevada Jan. 3,
11 2020) (similarly treating previously filed complaint as the operative complaint but substituting
12 newly named defendants).

13 **Defendants' Request for New Service Order**

14 In the response to Plaintiff's filing, counsel for Defendants requests an order for service
15 for the newly substituted Defendant, M. Rauf. (Doc. 34 at 2).

16 However, on September 8, 2023, Defendants filed an "Amended CDCR Notice of E-
17 Service Waiver." (Doc. 30). That notice is identical to Defendants' originally filed notice of
18 intent to waive service (Doc. 24) *except* that former Defendant R. Muhammad was annotated as
19 "Dr. Muhammad Rauf" (the newly substituted Defendant). The notice of intent to waive service
20 indicates that Dr. Muhammad Rauf intended to waive service. (Doc. 30). Thereafter, on
21 September 25, 2023, counsel for Defendants filed a waiver of service on behalf of "M. Rauf,
22 Defendant." (Doc. 32).

23 Thus, because counsel for Defendants already has accepted service on behalf of
24 Defendant M. Rauf, the Court need not enter a separate order for service. Now that M. Rauf has
25 been substituted as a named party, the Court will order Defendant to either file a responsive
26 pleading or joinder in the pending motion to dismiss. (*See* Doc. 28).

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Accordingly, it is hereby ORDERED:

1. Plaintiff's unopposed request to substitute M. Rauf as Defendant is GRANTED;
2. The Clerk of Court is DIRECTED to replace Defendant R. Muhammad with M. Rauf; and
3. Within seven (7) days of entry of this Order, Defendant M. Rauf SHALL FILE either a responsive pleading or joinder in Defendants' pending motion to dismiss (Doc. 28).

IT IS SO ORDERED.

Dated: **December 7, 2023**


UNITED STATES MAGISTRATE JUDGE